IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 24.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.130 of 2006

K.Thenmozhi ... Petitioner

Vs.

1.The State rep. by:
The Inspector of Police,
T-13, Kundrathur Police Station,
Chennai.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-8.

3. The Secretary to the Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records directing the respondents to produce the petitioner's son Srinivasan S/o Kandan, male aged about 27 years and now confined at Central Prison, Chennai, before this Court and set him at liberty forthwith by setting aside the order of detention bearing No.556/2005 dated 16.12.2005 on the file of the second respondent.

For Petitioner : Dr.G.Krishnamoorthy
For Respondents: Mr.Abudhukumar Rajarathinam
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the mother of the detenu by name Seeni @ Srinivasan, who was detained as a "Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

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Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 16.12.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 29.12.2005 was received by the Government on 30.12.2005 and remarks were called for on 02.01.2006. Thereafter, the remarks were received by the Government on 06.01.2006 and the File was submitted on 09.01.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same day i.e. on 09.01.2006 and finally, the Minister for Prohibition and Excise passed orders on 10.01.2006. The rejection letter was prepared on 13.01.2006 and the same was sent to the detenu on 16.01.2006 and served to him on 17.01.2006. If we exclude the intervening holidays, we are of the view that the time taken for disposal of the representation cannot be said to be either excessive or unreasonable. Accordingly, we reject the said contention.

4. The learned counsel for the petitioner further submitted that the pre-detention representation dated 08.11.2005 was not properly considered. A perusal of the reply by the detaining authority shows that the said representation was duly considered and rejected. Accordingly, we find no force in the said contention.

5. The learned counsel for the petitioner, by drawing our attention to the English version of the remand extension order dated 01.12.2005 and the Tamil version, which are available at pages 241 and 243 of the paper book supplied to the detenu, has submitted that the remand order was not properly translated. We verified both the English version and the Tamil version of the remand extension order. We are satisfied that that there is no flaw in the translation and the same has been correctly translated in Tamil. Accordingly, we reject the said contention also.

6. The learned counsel for the petitioner has also contended that the representation dated 29.12.2005 was not properly considered by the Government. According to him, though several grievances were expressed in the said representation, the same was not considered properly. We verified the representation dated 29.12.2005. Though it is stated that remand request was not supplied inspite of specific request made by the detenu, as rightly pointed out by the learned Government Advocate, the copy of the remand request has been enclosed

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along with the grounds of detention, which is available at page 217 of the paper book. In such circumstances, it cannot be claimed that the representation was not duly considered.

7. The learned counsel for the petitioner further contended that in order to detain the detenu by passing detention order, his bail application was delayed at the instance of the prosecution. In support of the above claim, he produced the xerox copy of the orders passed by the learned Principal Sessions Judge at Chenglepet. It shows that on four occasions, the learned Public Prosecutor took time. It also shows that on 02.12.2005, no one appeared even for the petitioner and because of the same, the learned Judge adjourned the bail application to 08.12.2005. In any event, merely because the Public Prosecutor prayed time and the matter was adjourned at his instance, it cannot be construed that the time was taken only to pass the detention order. The petitioner/detenu/accused should have persuaded the Court for passing early orders in his bail application. Accordingly, we reject the said contention also.

8. In the light of what is stated, we do not find any valid ground for interference. Consequently, the Habeas Corpus Petition fails and the same is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

To

1.The Secretary to Government of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-8.

3. The Inspector of Police, T-13. Kundrathur Police Station, Chennai.

4.The Superintendent, Central Prison, Chennai.
(In duplicate for communication to the petitioner)

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5. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

6. The Public Prosecutor, High Court, Madras.

+1cc to Dr.G.Krishnamoorthy, Advocate Sr 20734

MKJ (CO)
km/4.5.

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